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COMES NOW the Third Party Defendant, American Greetings Corporation (hereinafter “AGC”) and for its Answer to the Third Party Plaintiff’s Petition alleges and states as follows:

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Petition.

5. AGC admits the allegations contained in paragraph four (4) of the Third Party Petition.

6. AGC admits the allegations contained in paragraph five (5) of the Third Party Petition.

7. AGC denies the allegations contained in paragraph six (6) of the Third Party Petition.

8. AGC admits the allegations contained in paragraph seven (7) of the Third Party Petition.

9. AGC admits the allegations contained in paragraph eight (8) of the Third Party Petition.

10. AGC denies the allegations contained in paragraph nine (9) of the Third Party Petition.

11. AGC denies the allegations contained in paragraph ten (10) of the Third Party Petition.

### **AFFIRMATIVE DEFENSES**

COMES NOW the Third Party Defendant, American Greetings Corporation, for its Affirmative Defenses alleges and states as follows:

12. Plaintiff's Petition fails to state a claim upon which relief can be granted as to AGC.

13. The third party petition fails to state a claim upon which relief may be granted against AGC.

14. AGC denies any negligence.

15. The incident and Plaintiff's damages, if any, were caused by the negligence of the Plaintiff, which is greater than any negligence of the AGC thereby barring recovery.
16. The incident herein and any alleged injuries sustained by the Plaintiff were caused by the negligence and/or actions of third parties over whom AGC had no control and for whom AGC is not responsible.
17. Plaintiff failed to mitigate his damages.
18. Plaintiff's injuries and damages may have been pre-existing, or may be related to a subsequent event, for which AGC is not responsible.
19. Plaintiff's damages are limited or capped by application of 23 O.S. § 61.2.
20. Plaintiff's damages are limited by application of 12 O.S. §3009.1 (paid value of medical bills not incurred value).
21. Discovery is ongoing and AGC reserves the right to amend the Answer.

WHEREFORE, the Third Party Defendant, American Greetings Corporation, having fully answered herein and prays that Plaintiff take nothing by way of his Petition filed herein and that this American Greetings Corporation be dismissed, with costs and for such other and further relief as the Court deems just and equitable.

Respectfully submitted,

S/Timothy E. Lurtz  
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**Attorney for Third Party Defendant  
American Greetings Corporation**

### **CERTIFICATE OF MAILING**

I hereby certify that on 8<sup>th</sup> day of March, 2019, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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**Dolgencorp, LLC**

S/Timothy E. Lurtz  
Timothy E. Lurtz